United Nations A/54/710

General Assembly

Distr.: General
24 February 2000

Original: English

Fifty-fourth session
Agenda item 118
Review of the efficiency of the administrative and financial functioning of the United Nations

Regulations governing the status, basic rights and duties of the Secretary-General

Report of the Secretary-General

I. Introduction

1. The General Assembly, by paragraph 9 of its resolution 52/252 of 8 September 1998, requested the Secretary-General to expedite the submission to the Assembly, by the fifty-fourth session, of appropriate regulations and rules governing the status, basic rights and duties of the Secretary-General, officials other than Secretariat officials and experts on mission. The present report is submitted in response to that request.

II. Constitutional background

2. Pursuant to Article 97 of the Charter of the United Nations, the Secretary-General is appointed by the General Assembly upon the recommendation of the Security Council, and is the chief administrative officer of the Organization. In accordance with Article 98, the Secretary-General shall act in that capacity in all meetings of the General Assembly, the Security Council, the Economic and Social Council and the Trusteeship Council, and shall perform such other functions as are entrusted to him by those organs.

3. In accordance with Article 97, the Secretariat comprises the Secretary-General and such staff as the Organization may require. Although the Secretary-General is not a staff member, he or she is a member of the Secretariat and an official of the Organization.

4. In accordance with Article 100, the Secretary-General, in the performance of his or her duties, shall not seek or receive instructions from any Government or from any other authority external to the Organization. The Secretary-General shall refrain from any action that might reflect on his or her position as an international official responsible only to the Organization.

5. Under Article 105, paragraph 3, the General Assembly is empowered to make recommendations with a view to determining, inter alia, the privileges and immunities of officials of the Organization or to propose conventions to Member States for that purpose. The Assembly did so by adopting the Convention on the Privileges and Immunities of the United Nations on 13 February 1946 (resolution 22 (I)). Article V of the Convention provides for privileges and immunities of officials and provides that the Secretary-General shall be accorded the privileges, immunities, exemptions and facilities accorded to diplomatic envoys, in accordance with international law.

6. The General Assembly, by its resolution 11 (I) of 24 January 1946, approved the observation of the Preparatory Commission that, given that the Secretary-

00-31421 (E) 250200

General is a confidant of many Governments, no Member State should offer him or her, at any rate immediately on retirement, any governmental position in which his or her confidential information might be a source of embarrassment to other Member States, and on his or her part a Secretary-General should refrain from accepting any such position.

7. The General Assembly, by its resolution 590 (VI) of 2 February 1952, adopted the Staff Regulations of the United Nations. Staff regulation 1.10 provided that the Secretary-General should make the following oath or declaration orally at a public meeting of the Assembly:

> "I solemnly swear (undertake, affirm, promise) to exercise in all loyalty, discretion and conscience the functions entrusted to me as an international civil servant of the United Nations, to discharge these functions and regulate my conduct with the interests of the United Nations only in view, and not to seek or accept instructions in regard to the performance of my duties from any Government or other authority external to the Organization".

Staff regulation 1.10 was abolished with the adoption of a revised article I of the Regulations (see below).

III. Proposal by the Secretary-General concerning regulations governing the status, basic rights and duties of the Secretary-General

8. In his report on a proposed United Nations Code of Conduct (A/52/488), the Secretary-General submitted for consideration by the General Assembly a draft of the revised text of article I of the Staff Regulations and chapter I of the 100 series of the Staff Rules concerning the status, basic rights and duties of United Nations staff members. In the report, the Secretary-General indicated that the Administration would propose a separate set of regulations and rules governing the status, basic rights and duties applicable to the Secretary-General, officials other than Secretariat officials and experts on mission (ibid., annex II, section A.2, para. 6).

9. The General Assembly, in its resolution 52/252, adopted the revised text of article I of the Staff Regulations and took note of the revised text of chapter I of the 100 series of the Staff Rules applicable to United Nations staff members, as set out in the report of the Secretary-General (A/52/488, annex I), subject to certain modifications. In reviewing the Charter for the purpose of developing draft regulations and rules governing the status, basic rights and duties of the Secretary-General, officials other than Secretariat officials and experts on mission, it has become apparent that, with the exception of the oath or declaration of office to be made by the Secretary-General, the provisions of the Charter relating to the Secretary-General appropriately address the status, basic rights and duties of the Secretary-General. In view of those provisions, and with the understanding that the Secretary-General would continue to orally make the declaration now contained in staff regulation 1.1 (b) at a public meeting of the Assembly, the Secretary-General believes that there is no need for additional regulations and rules in regard to the Secretary-General. The declaration contained in staff regulation 1.1 (b) provides as follows:

> "I solemnly declare and promise to exercise in all loyalty, discretion and conscience the functions entrusted to me as an international civil servant of the United Nations, to discharge these functions and regulate my conduct with the interests of the United Nations only in view, and not to seek or accept instructions in regard to the performance of my duties from any Government or other source external to the Organization."